

JUN 21 2005

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Total Number of Pages in This Submission

4

Application Number	10/044,268
Filing Date	01/08/2002
First Named Inventor	Leu et al.
Art Unit	2872
Examiner Name	Joshua L Pritchett
Attorney Docket Number	

ENCLOSURES (Check all that apply)

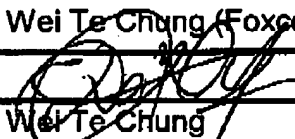
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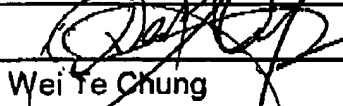
Reply Brief to Examiner's Answer

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Wei Te Chung (Foxconn International, Inc.)		
Signature			
Printed name	Wei Te Chung		
Date	June 20, 2005	Reg. No.	43,325

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JUN 21 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:)	Examiner:
Leu et al.)	Joshua L Pritchett
)	
Serial No: 10/044,268)	Group Art Unit: 2872
)	
Filed: 01/08/2002)	Dated: June 20, 2005
)	
For: INDIUM-TIN OXIDE THIN FILM)	
FILTER FOR DENSE WAVELENGTH)	
DIVISION MULTIPLEXING)	

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REPLY BRIEF TO EXAMINER'S ANSWER

Assistant Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's point (1) Real Party In Interest, it is confirmed that the assignment recorded at Reel 012484, Frame 0477 transferred ownership of the application to Hon Hai Precision Ind. Col, Ltd., as clearly stated in the original appeal brief filed on 02/18/2004 while inadvertently missing in the supplemental appeal brief filed 09/13/2004.

The Examiner asserts that the motivation to combine the two prior art references does not have to be the same as the applicant's reason (page 9, lines 6-7). Anyhow, Applicant can not see the clear reason/basis of the Examiner regarding what kinds of motivations/suggestions indicated by the references or the skilled person, which will lead such a combination. The probabilities/possibilities should not be the rejection basis.

The Examiner asserts that the unexpected result cannot be established unless being based upon an affidavit under 37 C.F.R. 1.132 (page 12, lines 4-5). Applicant believes that **"using the less number of film layers for reducing the internal stress while achieving the high isolation/filtering"** clearly contradicts the skilled person's thought regardless of whether such an affidavit is filed or not. None of the cited references or official notices mentions/implies such a phenomenon.

The Examiner asserts that if a limitation is not present in the claims the examiner would be improper to read such limitation into the claims absent any means plus function language as stated under 35 U.S.C. 112 sixth paragraph (page 11, lines 18-20). Anyhow, reduction of internal stress is a result derived from the claimed structure. The point is regarding whether the structure is an obvious combination of the references rather than the function language is cited or not.


The Examiner implies that Applicant did not submit the affidavit stating the resulted product are not inherent in the materials taught by the prior art of record. Anyhow, the point is regarding whether the claimed structure is an obvious combination rather than how the inherent characters of such structure performs.

Appeal No. 2005-0532 states "It is well settled that the mere fact that prior art may be modified to reflect features of the claimed invention does not make the modification obvious unless the desirability of such modification is suggested by

the prior art. *Our reviewing court has repeatedly cautioned against employing hindsight by using the appellant's disclosure as blueprint to reconstruct the claimed invention from the isolated teachings of the prior art."*

On the other hand, claim 11 further defines the specific layer number and the refractive index for optimizing the invention. No of the references suggest or imply such a combination. Applicant believes that the possible combination without indicating any purpose from the random references should not be the effective material to deprecate this invention.

Respectfully submitted,
Charles Leu et al

By 
Wei Te Chung

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